Fifth Count:

(1) The Grand Jury realleges paragraphs (1) through (6), inclusive, of the First Count and incorporates them herein by reference.

(2) On or about April 27, 1967, the exact date being unknown to the Grand Jury, within the District of Columbia, the defendant

Daniel B. Brewster

being a public official of the United States, acting for and on behalf thereof, in an official function; under and by the authority of the Senate of the United States, directly and indirectly, corruptly asked, solicited, sought, accepted, received and agreed to receive the sum of $4,500 for himself and for an entity, that is, the "D. C. Committee for Maryland Education", from Cyrus T. Anderson and Spiegel, Inc. in return for being influenced in his performance of official acts in respect to his action, vote, and decision on postage rate legislation which might at any time be pending before him in his official capacity, and in his place of trust and profit; in violation of Sections 201(c)(1) and 2, Title 18, United States Code.

Sixth Count:

(1) The Grand Jury realleges paragraphs (1) through (6) inclusive, of the First Count and incorporates them herein by reference.

(2) On or about April 27, 1967, the exact date being unknown to the Grand Jury, within the District of Columbia, the defendants

Cyrus T. Anderson
and
Spiegel, Inc.

directly and indirectly, corruptly gave, offered and promised the sum of $4,500 to Daniel B. Brewster, a public official of the United States, acting for and on behalf thereof, in an official function, under and by the authority of the Senate of the United States, and to an entity, that is, the "D. C. Committee for Maryland Education", with the intent to influence Daniel B. Brewster's action, vote and decision on postage rates legislation which might at any time be pending before him in his official capacity and in his place of trust and profit; in violation of Sections 201(b) and 2, Title 18, United States Code.

Seventh Count:

(1) The Grand Jury realleges paragraphs (1) through (6) inclusive, of the First Count and incorporates them herein by reference.

(2) On or about July 19, 1967, the exact date being unknown to the Grand Jury, within the District of Columbia, the defendant

Daniel B. Brewster

being a public official of the United States, acting for and on behalf thereof, in an official function, under and by the authority of the Senate of the United States, directly and indirectly, corruptly asked, demanded, exacted, solicited, sought, accepted, received and agreed to receive the sum of $5,000 for himself and for an entity, that is, the "D. C. Committee for Maryland Education", from Cyrus T. Anderson and Spiegel, Inc. in return for being influenced in his performance of official acts in respect to his action, vote, and decision on postage rate legislation which might at any time be pending before him in his official capacity and in his place of trust and profit; in violation of Sections 201(c)(1) and 2, Title 18, United States Code.

Eighth Count:

(1) The Grand Jury realleges paragraphs (1) through (6), inclusive, of the First Count and incorporates them herein by reference.

(2) On or about July 19, 1967, the exact date being unknown to the Grand Jury, within the District of Columbia, the defendants

Cyrus T. Anderson
and
Spiegel, Inc.

directly and indirectly, corruptly gave, offered and promised the sum of $5,000 to Daniel B. Brewster, a public official of the United States, acting for and on behalf thereof, in an official function, under and by the authority of the Senate of the United States, and to an entity, that is, the "D. C. Committee for Maryland Education", with the intent to influence Daniel B. Brewster's action, vote and decision on postage rate legislation which might at any time be pending before him in his official

capacity and in his place of trust and profit; in violation of Sections 201(b) and 2, Title 18, United States Code.

Ninth Count:

(1) The Grand Jury realleges paragraphs (1) through (6), inclusive, of the First Count and incorporates them herein by reference.

(2) On or about January 31, 1968, the exact date being unknown to the Grand Jury, within the District of Columbia, the defendant

Daniel B. Brewster

being a public official of the United States, acting for and on behalf thereof, in an official function, under and by the authority of the Senate of the United States, directly and indirectly, asked, demanded, exacted, solicited, sought, accepted, received and agreed to receive the sum of $5,000 for himself, from Cyrus T. Anderson and Spiegel, Inc. for and because of official acts performed by him in respect to his action, vote and decision on postage rate legislation which had been pending before him in his official capacity and in his place of trust and profit; in violation of Sections 201(g) and 2, Title 18, United States Code.

Tenth Count:

(1) The Grand Jury realleges paragraphs (1) through (6), inclusive, of the First Count and incorporates them herein by reference.

(2) On or about January 31, 1968, the exact date being unknown to the Grand Jury, within the District of Columbia, the defendants

Cyrus T. Anderson
and
Spiegel, Inc.

directly and indirectly, gave, offered and promised the sum of $5,000 to Daniel B. Brewster, a public official of the United States, acting for and on behalf thereof, in an official function, under and by the authority of the Senate of the United States, for and because of official acts performed by Daniel B. Brewster in respect to his action, vote and decision on postage rate legislation which had been pending before him in his official capacity

and in his place of trust and profit: in violation of Sections 201(f) and 2, Title 18, United States Code.

Attorney of the United States in and for the District of Columbia

A true bill:

Foreman.

[Filed, July 31, 1970, Robert M. Stearns, Clerk]

In the United States District Court
for the District of Columbia

Criminal No. 1872–69

UNITED STATES OF AMERICA
vs.
DANIEL B. BREWSTER, ET AL.

Motion by Defendant, Daniel B. Brewster, under Article 1, Section 6 of the United States Constitution to dismiss counts 1, 3, 5, 7 and 9 of the Indictment

The Defendant, Daniel B. Brewster, pursuant to Rule 12 of the Federal Rules of Criminal Procedure, moves to dismiss Counts 1, 3, 5, 7 and 9 of the Indictment, and says:

1. Counts 1, 3, 5, and 7 of the Indictment charge this Defendant with violations of 18 U.S.C. § 201(c)(1), and in each such Count this Defendant is charged with being influenced in his performance of official acts in his capacity as a United States Senator.

2. Count 9 of the Indictment charges this Defendant with violation of 18 U.S.C. § 201(g) for receiving moneys for or because of official acts performed by him in his capacity as a United States Senator.

3. Each Count of the Indictment, as charged, against this Defendant violates the provision of Article 1, Section 6 of the United States Constitution.

WHEREFORE, this Court is respectfully requested to dismiss the Indictment as returned and filed against this Defendant.

NORMAN P. RAMSEY
THOMAS H. WADDEN
Attorneys for Defendant,
Daniel B. Brewster.

[Filed, July 31, 1970, Robert M. Stearns, Clerk]

United States District Court
for the District of Columbia

Criminal No. 1872–69

UNITED STATES OF AMERICA

v.

DANIEL B. BREWSTER, ET AL.

Motion by Defendant, Daniel B. Brewster, to dismiss the Indictment

The Defendant, Daniel B. Brewster, pursuant to Rule 12 of the Federal Rules of Criminal Procedure, moves to dismiss Counts 1, 3, 5, 7 and 9 of the Indictment, and says:

1. Counts 1, 3, 5, 7 and 9 improperly charge this Defendant as the principal under 18 U.S.C. § 201(c)(1) and (g) and charge him as an aider and abettor of himself under 18 U.S.C. § 2, in violation of law and the rule that one cannot aid and abet himself.

2. Counts 1, 3, 5 and 7 are unconstitutionally vague and fail to apprise this Defendant of the essential elements of the alleged crime.

3. Title 18 U.S.C. § 201(c)(1) and 201(g) are unconstitutionally vague and contain no ascertainable standard of guilt as required.

WHEREFORE, this Court is respectfully requested to dismiss the Indictment as returned against this Defendant.

NORMAN P. RAMSEY,
THOMAS H. WADDEN,
Attorneys for the Defendant,
Daniel B. Brewster.

United States District Court
for the District of Columbia
Criminal No. 1872-69

UNITED STATES OF AMERICA, PLAINTIFF

v.

DANIEL B. BREWSTER, CYPRUS T. ANDERSON, SPIEGEL, INC. DEFENDANTS

WASHINGTON, D.C.,
Friday, October 9, 1970.

The above cause came on for hearing of motions before THE HONORABLE GEORGE HART, United States District Judge, commencing at 11:00 a.m.

APPEARANCES:

For the Government: *Alan I. Baron, Esq.*
For the Defendant Brewster: *Norman P. Ramsey, Esq., Rex Reinfeir, Esq., Thomas Dyson, Esq., Thomas J. S. Waxter, Esq.*
For the Defendant Anderson: *Peter A. Greenberg, Esq.*
For the Defendant Spiegel: *William O. Bittman, Esq., Austin Mittler, Esq., William Bradford, Esq.*
Herbert J. Miller, Jr., Esq. for John J. Sullivan.

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2 PROCEEDINGS

THE DEPUTY CLERK: Daniel B. Brewster, Cyrus T. Anderson, Spiegel, Inc., Criminal 1872-69.

THE COURT: For the record, would each counsel, starting with the Government, give their name and whom they represent.

MR. BARON: Alan Baron on behalf of the Government.

MR. GREENBERG: Peter A. Greenberg, counsel for Defendant Anderson.

MR. RAMSEY: Norman P. Ramsey, counsel for the Defendant Brewster.

MR. WAXTER: Thomas Waxter, counsel for Defendant Brewster.

MR. BITTMAN: William Bittman, Austin Mittler and William Bradford, counsel for Defendant Spiegel.

Mr. MILLER: Herbert J. Miller, Jr., counsel for John Sullivan.

The COURT: Mr. Miller, I guess while you are in between, there is more room at the Government's table, so why don't you sit there.

Now, one attorney went down looking for some papers.

Mr. RAMSEY: I do not think he has returned.

The COURT: Do we need him?

Mr. RAMSEY: No. That is Rex Renfrow.

The COURT: Then we will proceed. We will proceed
3 first with the motion to dismiss.

Mr. RAMSEY: If the Court please, Norman Ramsey on behalf of the Defendant Brewster.

The COURT: I may say that anybody here who is not a member of our bar is admitted.

Mr. RAMSEY: Thank you, Your Honor.

If the Court please, the issue which I would like to address myself to first is the constitutional issue which is raised in connection with the motion to dismiss, and I would simply preface my remarks by saying that obviously we are prepared and would be willing to develop and discuss any point which the Court would like to hear extensive argument on. However, the item has been fully briefed on both sides with extremely extensive briefs covering both the history of the privilege upon which we rely and discussions generally of the current cases, the Supreme Court interpretations, the rationale of the series of cases, and it is a type issue which is susceptible of more adequate presentation in briefing form than it is by oral argument.

In order that we may be reasonably concise and to the point, I would address myself only to the high spots of what I think are our position, rather than attempt to develop the extensive history of the Speech and Debate Clause of the Constitution,
and I will address myself primarily to the considerations
4 which I believe bring it sharply to bear on the issue which currently is before this Court.

As will be noted from the briefs, we proceed from the general question of what is protected by Speech and Debate and we know and are taught by the cases which have been decided on the issue, that it is not merely speech which is protected, although in the Johnson case, which is one of the leading cases, it was a speech which was in fact involved.

Nevertheless, in the Powell case, in discussing what the Court had therefore decided, at page 502 of 395 U.S. in Powell against McCormack, the Court made this comment as respects a summation of how it had treated the Speech and Debate Clause. It was summarizing there its position drawn out of the case of U.S. v. Johnson and the Court there said, the Supreme Court said that the purpose of the clause was, "to prevent intimidation of legislators by the Executive and accountability before a possibly hostile Judiciary."

The Court went on to say that although the clause had sprung from a fear of seditious libel actions instituted by the Crown to punish unfavorable speeches made in Parliament, that the Supreme Court had held that it would be a narrow view to confine the protection of the clause to words spoken in debate, and I am at this point, if the Court please, paraphrasing rather than quoting exactly.

The Court went on to say, and now I am quoting, that:

> "Committee reports, resolutions and the act of voting are equally covered, as are things generally done in a session of the House by one of its members in relation to the business before it."

In addition, the Supreme Court made the point that the clause not only provided a defense on the merits but that it also protected a legislator from the burden of defending himself, citing Dombrowski v. Eastland, which is also internally cited by the Supreme Court in the Powell case.

Now, as respects Dombrowski against Eastland, I think that the Supreme Court, in citing it for that proposition, relies on express language of that opinion and, accordingly, we proceed through two basic propositions: to wit, that what we are talking about are things generally done in a session of the House by one of its members in relation to the business before it, and that it goes to the right of the legislator to claim that he ought not be called into court to defend himself in connection with such activities.

Now, in this regard the papers which have been filed in the case and the data which has been supplied as respects the claims made against the Defendant Brewster make it perfectly clear that what is being attacked by this indictment are Senator Brewster's votes in committee and his votes

6 on the floor and his activities in connection with what the Supreme Court has described as things generally done in a session of the House by its members.

I therefore submit to the Court that on the basic proposition before you, sir, we have clear relevance and clear applicability of the Supreme Court rulings which bring into effect the matter which is considered in the Johnson case.

I would pass now to Johnson, which is probably the most extensive discussion by the Supreme Court of their treatment of the Speech and Debate Clause.

I will come from that, sir, down to the application given this matter in the Dowdy case by Judge Thomsen in the District of Maryland and that will round out the presentation as respects our current view of the Court's proper action in connection with our motion.

In United States against Johnson—and I am speaking now to the Supreme Court opinion, as distinct from the Fourth Circuit opinion, which is a little more widely ranging. The Supreme Court opinion restricts itself to a more narrow consideration, I believe, than Chief Judge Sobeloff did in connection with the Johnson case when it was in the Fourth Circuit. Addressing myself to the position of the Supreme Court and specifically to page 755 of the Supreme Court Reporter,

7 355 U.S. 180, the Court there was reviewing Kilbourne and Tenny and it indicated that the legislative privilege was to be read broadly to effectuate its purpose. They pointed out that those cases dealt with a criminal prosecution based upon an allegation that a member of Congress abused his position by conspiring to give a particular speech in return for remuneration from private interests, and the Court held, "However reprehensible such conduct may be"——

The COURT: That was a speech in Congress, was it not?

Mr. RAMSEY: That was a speech to the Congress. It was a speech by former Representative Johnson to the Congress in connection with the so-called savings and loan matters which were then current in the State of Maryland, as the Court will recall.

> "However reprehensible such conduct may be, we believe that the Speech or Debate Clause extends at least so far as to prevent it from being made the basis of a criminal charge against a member of Congress of con-

spiracy to defraud the United States by impeding the due discharge of government functions."

And now we come to what we consider the essential and controlling item before the Court this morning:

"The essence of such a charge in this context is that
8 the Congressman's conduct was improperly motivated and, as will appear, that is precisely what the Speech or Debate Clause generally forecloses from Executive and Judicial inquiry."

Now, if the Court please, it is our position that in this case what the Court has before it is wholly and solely a question of motivation of the particular legislator, Senator Brewster, in connection with his conduct in the matter of postal rates pending before the Congress, that that is entirely what is before the Court, and that the Johnson opinion in the Supreme Court explicitly applies and should be followed by the Court in connection with action on our motion to dismiss.

As respects this matter, I would invite the Court's attention to the comment of the Court at page 182 of 383 U.S., where the Supreme Court pointed out that in the argument by the Government it was suggested that the Clause was meant to prevent only prosecutions based upon content of speech. This is arguing that it was only libel actions which were to be comprehended by the Clause.

The Government further argued that it was not to cover those not founded on. "The antecedent unlawful conduct of accepting or agreeing to accept a bribe," citing page 11 of the brief of the United States in that regard.

9 Now, addressing themselves to that, the Supreme Court held that while historically seditious libel might have been the most feared legal action because of its historical antecedents, and the propensity of the British Crown to use it for punishment of legislators where the Crown had taken exception to comments on the floor of the parliament, nevertheless they went on to hold this:

"We hold that a prosecution under a general criminal statute dependent on such inquiries necessarily contravenes the Speech or Debate Clause."

And the "such inquiries" to which reference is there made, if the Court please, is motive of the Congressman.

We emphasize, they said, that our holding is limited to prosecutions involving circumstances such as those presented in the case before us.

And then we come to the area which is treated of in the Dowdy case and which is the argument which was advanced to Judge Thomsen in Maryland and which I think is the final point which I would like to make to the Court:

> "Our decision does not touch a prosecution which though, as here, founded on a criminal statute of general application, does not draw in question the legislative acts of the defendant member of Congress or his motives for performing them."

Now, we submit to the Court that this case does
10 expressly draw in question legislative acts of the defendant and his motives for performing them.

They go on to say—

The COURT: Let's see, the motive alleged, of course, is payment of money, isn't it?

Mr. RAMSEY: That is correct, sir, and improper acceptance of this money. Or, to put it; I think, more accurately, Your Honor, it is the intent to be influenced in his conduct as to something which might arise before the Congress, which is the specific charge of counts 1, 3, 5 and 7. It is acceptance of money in connection with past conduct, which is the thrust of indictment count 9, as the Court will recall. There is that distinction; 201(c) in 1, 3, 5 and 7, 201(g) in count 9 of this indictment, sir.

So we suggest to the Court that what is on file in this case, the language of the indictment itself, the particularization of the indictment, which indicates what the Government intends to rely on as demonstrating the intent to be influenced, the intent to be improperly influenced by virtue of the receipt of money, that, we say, does draw into question legislative acts and it does draw into question motives.

Then we come to the narrow exception which the Supreme
11 Court carved out of its broad finding that you should not permit a prosecution to proceed or make a legislator answerable for his motives or for his acts as a legislator and that is in the following language:

> "And without intimating any view thereon, we expressly leave open for consideration, when a case arises, a prosecution which, though possibly entailing inquiry

into legislative acts or motivations, is founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members."

Now, it is to this point that the Government addressed itself in the Dowdy matter and to which Judge Thomsen addressed himself in the course of his opinion in the Dowdy matter.

The Court will note, however, that in the Supreme Court opinion there is express reference made, in the form of a CF, note 15, to the 75 Yale Law Journal article which deals with the problem of bribery of Congressional members, and it is with this in mind that we address our argument to the Court in connection with the Dowdy opinion of Judge Thomsen.

The Court will recall, in fact, that Judge Thomsen was the presiding judge in Johnson, that he had a substantial inquiry before him in Johnson and decided it adversely to the defendant and that that decision, as respects count 1 of the 12 indictment, which was conspiracy to defraud the United States, that as to that count there was a reversal by the Court, by the Fouth Circuit, and because of the interplay of the evidence introduced in support of that count in the lower court there was an outright reversal of all counts.

The COURT: Did the first count relate to the speech?

Mr. RAMSEY: There is a little disagreement on that, Judge, in that the Fourth Circuit said that the speech aspect was almost all persuasive in the first count. There was some disagreement among the Justices, as the Court will recall, as to whether or not you couldn't excise the speech aspect and take other acts which could be probative of a conspiracy count. So, yes, sir, it did in major part, if I may characterize it in that fashion, Your Honor.

Coming down to the decision in the Johnson case and looking to what was before the Supreme Court and to take it in its proper order, what was before the Fourth Circuit and then thereafter before the Supreme Court in the Johnson case, in Judge Sobeloff's opinion in 337 F. 2d at 180, the discussion which was had at page 191 demonstrates that what they were addressing themselves to was the problem of bribery as distinct from an isolated problem of the ability of a conspiracy statute to withstand an attack on motion to dismiss. In this regard, Judge Sobeloff made this comment:

"All will agree that when a Congressman accepts compensation for a speech his act is reprehensible. However, the privilege being applicable, courts are barred from exercising jurisdiction and the duty falls upon the House of Congress to punish its offending member. It is not an unfamiliar concept to bar a conviction regardless of how contemptible a defendant's act may be, in order to protect and preserve an important constitutional principle."

He then goes on to cite the cases of Gideon and Map as representative of the fact that it is not always the case that the most noteworthy of your citizens represent your great constitutional privileges and your great constitutional principles.

Addressing himself to the question of whether or not, as the Government took the position that if a man is innocent of taking a bribe, what's he worried about, Judge Sobeloff again at page 191 made this comment:

"It is no answer therefore to say that if the accused member is innocent of accepting a bribe he has nothing to fear. A groundless charge may be sufficient to destroy him at the polls. Moreover, the process of indictment by a grand jury and inquiry in a court may itself be so devastating that an innocent Congressman may well fear it."

Now, that was apropos a lead-off paragraph or sentence of the same paragraph, which was as follows:

"The design of the Speech and Debate Clause is to promote the independence of all Congressmen. To avoid restraint on free expression on the floor of either House, protection is given against the hazard and harassment of inquiry in any court."

Now, looking to the decision in the Supreme Court with respect to Johnson and trying to see whether or not they were really talking about bribery as such or whether they were talking about a more narrow problem, the summary which the Supreme Court Justices make with respect to what was before them points out quite clearly that the thrust of the Government's case was that the alleged defendants or the alleged interested persons who were in the savings and loan industry in Maryland, and I am quoting now from page 172 of 383 U.S., where they made this comment:

"For these services Johnson received substantial sums in the form of a campaign contribution and legal fees. The Government contended, and presumably the jury found, that these payments were never disclosed to the Department of Justice and that the payments were not bona fide campaign contributions or legal fees but were made simply to "buy" the Congressman."

The Court is addressing itself, in other words, to the problem of the bribed Congressman in connection with the Johnson case, both in the Fourth Circuit and at the Supreme Court level. It is addressing itself to whether the alleged existence of this type motivation can or cannot constitute a basis for judicial inquiry into Congressional conduct and it concludes that it cannot.

Now, we have come full circle on the reasoning, if the Court please, as I see the proposition before the Court this morning. That is to say, if you are testing by an indictment conduct or motivation of a legislative type, it is forbidden and proscribed by the Speech and Debate Clause under all the applicable authorities.

The Court: Let me see if I understand your contentions clearly. In other words, your contention would be that if Individual A gives Congressman or Senator B $10,000 to vote yea or nay on a particular bill in the Congress, that that is covered by the Speech and Debate Clause?

Mr. Ramsey: I concur, sir.

The Court: That is your contention?

Mr. Ramsey: Yes, sir.

The Court: Likewise, were such a sum given to vote yea or nay in an executive session on voting a matter in or out or whatever, that that would likewise come under the Speech and Debate Clause, do I understand that to be your contention?

Mr. Ramsey: I think that is a fair statement, Your Honor, of my position, yes, sir.

If I might just add one sentence to it, sir. The reason I say that is that it fits within what I consider to be legislative action, which is what I read the cases to cover.

The Court: Well, now, how is Dowdy similar to Brewster and how does it differ from Brewster?

In Dowdy I believe you had an allegation of giving money to do something with an Executive part of the Government, did you not?

Mr. Ramsey: That is correct. It is contended that in the Dowdy case, that Dowdy was involved in a conspiracy to commit a violation of 18 U.S.C. Section 371, to receive compensations for services to be rendered by Dowdy and others in a proceeding in which the United States was a party and had a direct and substantial interest before a departmental agency and officer. So, it is receipt of money in connection with that, sir.

17 The Court: Well, to that extent that does not apply to the Brewster case, does it?

Mr. Ramsey: It does not expressly address itself to the Brewster case, no, Your Honor. But the reasoning—I am not trying to dodge Judge Thomsen's opinion by representing to the Court that it is not a matter which ought to be considered. That is not my position, sir. I think Judge Thomsen did bring himself, in his opinion, to address himself to the issue before the Court, so it is not my position that this is an irrelevant——

The Court: But I was trying to determine in what respect he did. There must be other counts, then, that become similar in the Dowdy case, that become similar to the counts in the Brewster case.

Mr. Ramsey: I think where you get into that, if the Court please, is in a discussion in the latter portion of Judge Thomsen's opinion, which I know the Court has available to it.

The Court: I have it right here.

Mr. Ramsey: Where at page 8 of the typescript of the opinion Judge Thomsen is addressing himself to counts 1 and 3, which he finds to be offenses which are based on, "narrowly drawn statutes passed by Congress in the exercise of its legislative power to regulate the conduct of its members." And he thereby attempts to reason that in those statutes, the

18 conflict of interest statutes and bribery statute, he analogizes and talks about those in that regard and says that they are narrowly drawn statutes in the exercise of Congress' power.

The Court: I am not sure that I am following you or we are understanding each other.

You would not, for example, contend that it would not be unlawful for a Senator, say, to take a certain sum of money in

order to obtain a pardon from the Executive Branch of the Government. At least that would not be covered by the Speech and Debate Clause.

Mr. RAMSEY: No, I agree, Your Honor.

The COURT: Well, now, to what extent was that type of thing involved in Dowdy and was that the only type of thing involved in Dowdy, or do we have involved in Dowdy the alleged taking of a bribe to allegedly do the same thing alleged against Brewster in this case?

Mr. RAMSEY: If the Court please, I think the answer to that is, when Judge Thomsen was addressing himself in the latter portion of his opinion he was talking to count 3, and count 3 in the Dowdy case is premised on a violation of 18 U.S.C. Section 1952 in that the defendant is alleged to have traveled in interstate commerce to carry on an unlawful activity, to wit, bribery within 201. Do I now bring the point I am making to the Court? That is to say, count 3 deals with alleged interstate transportation or use of interstate commerce, rather, to carry on an unlawful activity, to wit, bribery. So there the Judge is addressing himself to 201 and 201(c) are what are precisely before the Court in the Brewster matter.

The COURT: All right.

Mr. RAMSEY: Now, coming down to the problem debated and decided by Judge Thomsen, and opposed to the position we would ask this Court to take, speaking quite candidly, we simply submit that the Judge cannot possibly be right under the controlling authorities in the Supreme Court and in the Fourth Circuit; and we further suggest to the Court that although the Court has earlier heard argument with respect to alleged vagueness of the statutes, of 201(c) and 201(g), unconstitutional vagueness, if the Court please, which was the concept which we advanced in another memorandum submitted to the Court in connection with another aspect of the motion to dismiss, our position is this, sir: That the Supreme Court had available to it and on the books at the time it was hearing the Johnson case the very statute now before this Court and that the Supreme Court was not talking about the current version of 201 as a "narrowly drawn statute" but that in fact it is constitutionally too vague to be a statute which can meet the description of a narrowly drawn statute.

The cases which have interpreted it, the very essence of the statute itself, makes it perfectly clear that it is broad, extremely broad, not narrow. It is a pistol shot. It is a shelling of the woods in the fashion of the artillery, and that as a result of that we simply cannot accept the Gertrude Stein reasoning that a rose is a rose because I say it is a rose.

The indictment which has been drafted under those sections and which is before this Court demonstrates that it is not and is not intended to be a narrowly drawn statute or a narrowly drawn indictment. The Court will recall that what is alleged is, in the early counts, that action or vote or decision would be influenced with respect to items which might come before the Defendant Brewster in his official capacity, not which did.

Further, the allegation is made that, in the early counts—and I am excluding count 9 so that I don't confuse that, because I will address myself to that in a moment—not only does the indictment speak in terms of things which might come before the Defendant Brewster but as to one particular count, the first count, what is involved there is postal legisla-

21 tion which had not yet been alleged to have arisen in the Congress of which Senator Brewster was a member. That is the count which deals with a check in the time preceding the convening of the Congress in which the postal regulation bill was introduced.

Now, second, if I may thrust this forward just a moment in connection with the detail of the indictment before the Court, not only do you have this concept of it might be before him, but you have the concept in this statute of on his own behalf or on behalf of some other entity.

So that you have built into this all the vagueness which is denounced and you do not, to put it in the converse, you do not have the narrowly drawn statute which is contemplated.

Nor did the Supreme Court, with that statute on the books, indicate that it felt that the bribery statute then extant as at the time of Johnson was an adequate and narrowly drawn statute which would meet the specifications set in the Johnson opinion in connection with the exclusion from the sweeping language of the protection against inquiry into motivation and legislative conduct of a particular Senator or Congressman.

Now, it is our position, sir, that as to counts 1, 3, 5 and 7, which are the early counts, count 1 has the peculiarity of being antecedent to any legislation being in the Congress.

22 Counts 2, 3, 5 and 7 have relation to a time when, a point in time when postal rates were before the Congress, but they speak in terms of might and not in terms of were. They do not speak in terms of necessarily having payment made to him but to another entity, and in each of these respects we submit that we are not dealing with an indictment, nor are we dealing with an underlying statute which can possibly meet the test of narrowly drawn.

As to count 9, which is 201(g), still a different consideration prevails because in 201(g), unlike 201(c) which requires a corrupt intent, we feel it does not add sufficient definition to the statute but it may or may not add greater definition in the statute than does in (g) where the word corruptly is completely omitted from the statute.

So, if I may characterize our position, counts 1 and 9 have slight variables in them. Counts 3, 5 and 7 we feel are premised on definitely an unconstitutionally vague statute, certainly not a statute which meets the narrow concept which the Supreme Court was talking about, not a statute which the Supreme Court has approved as sufficiently narrowly drawn, but one which we submit Judge Thomsen erroneously concludes is a narrowly drawn statute and which we believe is demonstrably not a narrowly drawn statute, which by process of reasoning leads to our position and contention that Judge Thomsen's reaction and result when he finds it a narrowly drawn statute, we think (a), to be unsupported in his opinion; (b), to

23 be incorrect; and (c), to fly directly in the face of Johnson and the other controlling Supreme Court and Fourth Circuit authorities.

Now, sir, I will not belabor the point. I have brought it, I think, full circle and unless the Court would like me to develop further a given aspect of the matter, I would thank the Court for its attention and say that I stand ready to answer any questions which might be addressed to me, sir.

The COURT: Well, I think I would like to hear from the Government, but before I do, do any of the other defense counsel have anything they want to say about this?

Mr. MITTLER: If the Court please, Austin Mittler for the Defendant Spiegel.

Your Honor, we have filed an extensive motion to dismiss on the same grounds just advanced by Mr. Ramsey on behalf of the Defendant Brewster.

In addition, we have filed an extensive memorandum of law dealing with the same subject, the unconstitutionality of 18 U.S.C. Section 201.

In our papers we developed the point one step further, the extent to which this point is applicable to the Defendant Spiegel, and on that point it gets us into a discussion of
24 the inseparability of the statute with which we are dealing here and in the event the Court determines that 18 U.S.C. is unconstitutional as applied to the Defendant Brewster, it likewise is unconstitutional as applied to the Defendant Spiegel.

Our argument, however, Your Honor, does not come into play unless and until this Court makes a determination that the statute is unconstitutional as applied to the defendant Brewster.

So, I would reserve the right to make further argument on the separability point until Your Honor has made a ruling with respect to the basic question presented by Mr. Ramsey on behalf of the Defendant Brewster.

Mr. GREENBURG: Peter Greenburg for the Defendant Anderson, Your Honor.

We would take the same position as Mr. Mittler has taken for the Defendant Spiegel. We have joined in their motion and we ride pretty much the same rail with respect to this point in that the Court must first determine the issue with respect to Defendant Brewster and then the question of how we fit into this would then become proper.

Thank you.

Mr. BARON: If the Court please, Alan Baron, representing the Government in this case.

Your Honor, I am not going to cover once again the
25 ground which I believe has been plowed so deeply and thoroughly in the memoranda and in the arguments referred to heretofore, but I simply would like to make several points.

I think Your Honor's hypothetical to Mr. Ramsey flushed out what may be at the heart of this entire discussion.

The COURT: Well, if I have I am not aware of it.

Mr. BARON: Well, perhaps I can elaborate on that.

If Your Honor will recall, you asked Mr. Ramsey if a man paid a Congressman or a Senator $10,000 to make a speech and the Senator went ahead and made the speech in response to the quid pro quo, would he be protected under the Speech and Debate Clause, and Mr. Ramsey said yes, that is his contention.

Your Honor, I submit and I refuse to believe that election to the Congress of the United States is the equivalent of a license to steal. I cannot believe that that is the message of the Speech and Debate Clause. I can't believe that is the message of the Johnson case.

No one can doubt the validity of a policy which is intended to protect a Senator or Congressman from civil or criminal liability for his "legislative acts," and to the extent that the Speech and Debate Clause still affords that protection, I think it serves an extremely important purpose. But I submit that there is another policy at work here and it is a policy
26 which the Congress has recognized for over 100 years and that is that the public has to have confidence in the integrity of the legislative process and that criminal sanctions for bribery, conflict of interest activities on the part of Congressmen are necessary to protect the integrity of that process and that the Federal Judiciary is the appropriate forum in which to try any such cases.

Now, it is for that reason that Congress has seen fit for over 100 years to delegate to the Executive and to the Judiciary the power to try members of Congress for bribery and conflict of interest activities and it is a power which the Congress can revoke if it believes it is being abused.

The Congress has simply recognized, we submit, that they are ill-suited to deal properly with those members who may be guilty of corrupt activity.

Now, what better forum than the Federal courts, which are themselves, except for the Supreme Court, created by the Congress——

The COURT: Well, I don't know that that answers the problem. The Congress itself can't question why a Senator does anything in a representative capacity, as such, can they?

Mr. BARON: Your Honor, I believe they could. I
27 don't believe that they are required to do so and that they are the exclusive source of sanctions. It is a power that, we submit, they can and have delegated to the Judiciary.

with all of the protections of the criminal law which the entire mechanism is precisely constructed to try cases in which accusations are made against individuals. The Congress is not geared for that.

The COURT: Let's approach this from another way. It is not true that the Supreme Court said that Thomsen could not be prosecuted for accepting money to make a speech on the floor of the House?

Mr. BARON: Did you say Thomsen or Johnson?

The COURT: Johnson, I mean.

Mr. BARON: Yes, sir, under 371, the general conspiracy to defraud the United States statute, yes, sir. That was their very limited holding. They were quite specific about that.

The COURT: Now, the thrust of your indictment here is that Senator Brewster accepted bribes for, in effect, to vote or voting as the people who are alleged to have given him the money wanted on certain types of legislation. How does that differ from the Johnson matter?

Mr. BARON: I believe it does differ from the Johnson matter in a very basic respect, Your Honor. I think we are right to focus on Johnson because that really is the seminal case for our purposes, although it hardly decided the question. What it did do, I submit, was leave open the question of inquiry into legislative acts.

I submit by leaving open that question they specifically rejected the contention that Mr. Ramsey is pushing for here today. They left it open.

If it were so clearcut, if that example that you gave, if that were the answer, there is no question to leave open, that is the end of it.

They did leave that question open and that is the question before you today.

They left open the question of inquiry into legislative acts when the prosecution is founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members.

Now, I submit that what the defendants have tended to do to Johnson is to focus on the first part of that. They say a narrowly drawn statute and as if this connotes some kind of special kind of legislation, a special kind of standard of draftmanship, perhaps a special kind of vagueness test which is

applicable only to members of the Congress and not to the common folk.

I submit that is simply not tenable. I think you have to read the whole sentence, "a narrowly drawn statute," and I would stress this part, "passed by Congress in the exercise of its legislative powers to regulate the conduct of its members."

That description, I submit, fits Section 201.

Section 201, unlike 371, which was involved in Johnson, focused directly, was focused directly by the Congress upon members of the Congress. That is the distinction from Johnson.

The Court: You know, to me an interpretation of the law is supposed to be common sense and all these nice differentiations sometimes escape me.

But we have the Constitution, which in the Speech and Debate Clause definitely intends to protect Senators and Congressmen from being questioned as to why as a Senator or a Congressman they voted a certain way, made a certain speech in the Congress or voted a certain way in committee, or I should think it might certainly extend to arguing with other Senators why they should vote for their point of view and whatnot.

Now, surely the framers wished to protect these members from being constantly heckled and accused of improper motives, certainly as far as the criminal law is concerned, for what they did.

Now, if that is the purpose of it aren't we in this case, in effect, or isn't the Government in this case, in effect, questioning Senator Brewster for his legislative actions in committee and on the floor? That is what I am having trouble getting around.

Now, there are some circumstances that maybe it is impossible to stop Representatives and Senators from being rascals. I am not speaking of Senator Brewster, nothing so far has been proven against him. I am speaking generally. Except, of course, the will of the people, which is the final judge in these cases.

I don't know, but I must admit this thing gives me a lot of trouble and seeing the trouble I am in, what can you do to cast some light in my mind?

Mr. Bacon: Your Honor, I submit this: I don't want to pretend it is a clearcut question. It is terribly troublesome and

it is one the Supreme Court didn't reach in Johnson. Obviously they left it open for you to struggle with or for Judge Thomsen to struggle with in Maryland.

I submit that if all we had were the Speech and Debate Clause in the Constitution, if there were no section 201 passed by the Congress, the very body which has the right to claim the privilege under the Speech and Debate Clause——

The COURT: Congress can't change the Speech and Debate Clause except by submitting a Constitutional Amend-
31 ment.

Mr. BARON: I submit, Your Honor, they have the power, however, to regulate their own membership and we submit they have the power to delegate the power to regulate their own membership.

And that if there were no section 201 or its equivalent, I would say that we are stymied, it is a license to steal. But Congress, having exercised that power, Congress having, in effect, said to the Judiciary and to the Executive you have the authority by virtue of our legislation to investigate, to try Congressmen who may be guilty of corrupt activities, I submit that 201 is the mandate for proceeding.

The COURT: We are now just talking about corrupt activity in your legislative capacity. I wouldn't have any trouble with the allegations of the Dowdy matter as to accepting money to try to affect the Executive Branch of the Government or the Judicial, should such a thing happen. But I must admit I am having trouble with whether Congress itself has the power.

If Congress does not have the power they can't give it to us.

Does Congress itself have the power to question why a man voted a certain way, why he argued a certain way, why he made the representations he made in executive committee and whatnot, does Congress itself have that power?

It isn't enough just to say that Congress has given
32 it to the courts. Have they got it to give?

Mr. BARON: Your Honor, I submit that they do. I think that Powell certainly reflects that, whatever else Powell may say, which probably raises more questions than it answers. I think Powell does reflect that they do have the right to discipline their members and to regulate the conduct of their members and I submit——

The COURT: They have got a right to regulate certain conduct of a member and, of course, under one section of the Con-

stitution, by a two-third vote, presumably subject to Supreme Court opinion, they have a right to remove a man from the Senate almost without giving any cause; but that could be done without questioning the manner in which he voted or manner in which he spoke or the manner in which he acted in his purely legislative capacity.

This thing gives me a lot of trouble.

Mr. BARON: Your Honor, I would not begin to pretend it is not a troublesome point. It is one which I assume some day the Supreme Court is going to resolve for us, more or less.

But I do submit, Your Honor, that Congress does have this inherent power to inquire, yes, even into the integrity of its own process, and it does have the power to delegate that

33 should the Congress determine in its wisdom that it, as a body, is simply not capable of performing that function which it has the inherent power to perform. They have the power to delegate that to the most appropriate forum of all, the Federal Judiciary. And should it be abused by the Federal Judiciary, Congress can revoke that power.

The COURT: That is not the question. The question becomes simple. Does Congress itself have the power to question the speech and debate of one of its members with the necessary legislative matters that go along with it? If it has, it can give it to the courts. If it doesn't, it can't give what it doesn't have.

Well, tell me this: does the indictment in any wise allege that Brewster did anything not related to his purely legislative functions?

Mr. BARON: We are not contending that what is being charged here, that is, the activity by Brewster, was anything other than a legislative act. We are not ducking the question; it is squarely presented. They are legislative acts. We are not going to quibble over that.

But they were also legislative acts, I submit, in Dowdy.

The COURT: What was the legislative act in Dowdy? I don't consider trying to get an Executive Department to do something for a constituent as being legislative. That would not strike me as being so.

34 Mr. BARON: On Page 7 of Judge Thomsen's opinion—they were not as squarely presented, there weren't as many squarely legislative acts in Dowdy as we have here. On page 7 of Judge Thomsen's opinion, where we have (a), if I may read it:

"With the exception of certain overt acts which charge one, that Dowdy used his official position to obtain records which were later turned over to Cohen and, two, that he discussed with co-conspirators to have Cohen testify, it is within the meaning of Johnson."

Implying, of course, that these specific acts Judge Thomsen regarded as legislative acts. Then he went on on page 8, where he had to face the question which I submit is squarely presented here, and he accepted it and I think rightly so.

The Supreme Court found Judge Thomsen made a mistake the first time. I don't believe, given another chance, he is going to make it again or has made it again. I think in many ways he had a tougher problem and he was back at the conspiracy statute again. He was one step removed from what we have here.

The proceeding in our case is, of course, a direct prosecution in 201. What we have in Dowdy is a conspiracy to commit 203 and, I believe, 1952. I am not positive.

But in any event, it was back to the old conspiracy section but this time it was not simply the general conspiracy to defraud the United States, which you had in Johnson, it was a conspiracy to commit crimes which might have been charged under the narrow acts.

So, Judge Thomsen in that respect had another hurdle to jump. He was one step removed from the direct act. It was still a conspiracy and yet he still concluded that that prosecution, the prosecution in Dowdy was proper in light of Johnson.

I submit that in our case 201 is the mandate from Congress for this Court to try this case.

The COURT: I have a tremendous respect for Judge Thomsen. I consider Judge Thomsen one of the ablest judges in the country. But it doesn't necessarily mean we agree in this matter.

Tell me this: If this is permissible, what is to stop a President who is unhappy with the vote on a bill having his Attorney General bring an indictment against a dozen Congressmen for the way they voted on a bill, alleging that they were bribed? What is to stop that? Now, if you say, well, a proper President and a proper Attorney General would never do such things, of course we have laws to protect people against things being done improperly. If everything is done

36 properly we wouldn't need many laws. What is to stop it if this is permitted?

Mr. BARON: You; the Federal Judiciary.

The COURT: Well, we are not God.

Mr. BARON: No, sir.

The COURT: We can't stop them being brought. We can throw them out but we can't stop them being brought.

Mr. BARON: May I turn the question around—

The COURT: And we may not be able ourselves to do anything about it until there has been a public trial degrading the Congressman or Senator.

You know, this Speech and Debate Clause wasn't just something that somebody stuck in this Constitution as an afterthought just to be putting words in. This matter of protecting legislators in what they did as legislators was a very important matter to the people who drafted our Constitution. It is a right you don't very often hear about, but for the functioning of a true Republic it is probably as important as the first ten Amendments put together.

Mr. BARON: I don't mean to downgrade it for a moment, Your Honor, but let me turn your question around. Your question was whether an unscrupulous Executive might, in effect, institute improper, unwarranted actions against the legislature. That is, yes, a risk created by 201. On the other hand the Speech and Debate Clause creates the other side

37 of the coin: that is, unscrupulous legislators, in effect, walk into the Congress with a license to steal. That is also a risk. It is a risk which the Congress has recognized and is in the balance.

Perhaps the answer is they are trusting the Executive not to act unscrupulously and the Federal Judiciary in the final analysis to act as an adequate barrier. They have more reliance on that than, perhaps, the license which otherwise every Congressman would have as soon as he were elected to office.

There are risks on both sides. The balance has been struck by the Congress in Section 201.

The COURT: Well, no, the balance was struck by the framers of our Constitution. We have got to determine what that balance is.

Mr. BARON: I submit that the balance—the absence of any kind of braking device in the absence of a 201 or equivalent, the

balance struck by Speech and Debate is all one way, it is a complete immunity.

The COURT: Well, except for the voters and except for the possibility of the provision in the Constitution, the exact section of which I don't recall at the moment, which provides by two-thirds vote of the body the Congress may expel a member.

Mr. BARON: Your Honor, I think the notion that it
38 would be by the voters, one, you have the fact a Senator has six years, it is a very long process in which to be in there without an immunity of this kind.

In the absence of any reason for the Executive to investigate, nothing would come to light. The Executive wouldn't spend its time investigating matters in which it could never take any further steps.

The COURT: Well——

Mr. BARON: I think the remedy of the ballot box would be non-existent, fictitious.

The COURT: Maybe so, maybe so. All right.

Mr. BARON: I think I will rely beyond that on the memoranda which have been submitted, Your Honor.

The COURT: Does anyone else have anything to say?

Mr. MITTLER: Yes, Your Honor, there are just one or two items that I would like to cover in light of some of Your Honor's comments.

Section 201, the statute in question, is a statute which prohibits the taking of a bribe and the giving of a bribe to a Congressman, all covered within the purview of the one statute. This particular statute, which went into effect in 1962 as part of the bribery, graft and conflict of interest act of that year, does not contain a separability clause as some statutes do. It does not contain a clause which says that in the event
39 a court were to determine that one part of the statute is unconstitutional, that the other part of the statute should survive and have vitality.

Under these circumstances, the Supreme Court in the case of Carter Coal Company has said that this gives rise to a presumption, a presumption that the proponent of the statute must overcome, a presumption that the entire statute must fall. It was said as follows:

"In the absence of a separability clause the presumption is that the legislature intends an act to be effective as an entirety. If any provision be unconstitutional the

presumption is that the remaining provisions fall with it."

The COURT: What is the purpose of the argument you are now making to me?

Mr. MITTLER: I want to get before Your Honor for the Court's consideration the position of Spiegel in the event the Court were to decide that the statute is unconstitutional as applied to the Defendant Brewster. It is our contention, under those circumstances, that it is likewise unconstitutional—

The COURT: I am not ready for that argument yet.

Mr. MITTLER: Then I will reserve it, Your Honor.

Mr. RAMSEY: If the Court please, may I make one comment, sir?

The COURT: Yes.

40 Mr. RAMSEY: I would simply come back, if the Court please, to the fact that what was being decided in Johnson by both Judge Thomsen, the Fourth Circuit and before the Supreme Court, was almost four-square on the bribery statute.

I point this fact out at page 189 of the Johnson opinion in the Fourth Circuit. Judge Sobeloff made this comment:

> "While it is true that count 1 of the indictment alleges a 'conspiracy to defraud the United States' and not bribery, the District Court by citing Federal and State statutes which make the acceptance of a bribe a criminal act, recognize the close relation between the two. The District Judge also noted that in no instance had the constitutionality of the Federal or State bribery statutes ever been questioned. Reasoning by analogy from these statutes and the cases decided under them, which do not, however, discuss the constitutional question, the Judge concluded that the prosecution of a member of Congress for receiving money from a private person for making a speech on the floor of the House would not be barred by Article 1, Section 6, Clause 1 of the Constitution."

41 "It was this reasoning of Judge Thomsen which was reversed by the Court of Appeals and affirmed by the Supreme Court, the Fourth Circuit being affirmed by the Supreme Court.

I think that Mr. Baron's point as respects the license to steal is badly taken because very many of the cases in this field point

out that Congress has itself an interest in protecting its integrity, has itself an interest in providing adequate sanctions against those members who do not conform to conduct which is expected of Congressmen, Senators, and using that to encompass both House and Senate.

And as a practical matter, that as to this action which is brought here, we do have a situation where, in our opinion, sir, and we most earnestly urge that the entire issue has been the subject of consideration, of detailed consideration and of ultimate determination in the Fourth Circuit and thereafter by the Supreme Court, since the Supreme Court also approached this as a question of the sufficiency of the bribery aspect, even though the indictment in form was a conspiracy to defraud.

42 OPINION OF THE COURT

The COURT: Gentlemen, based on the facts of this case, it is admitted by the Government that the five counts of the indictment which charge Senator Brewster relate to the acceptance of bribes in connection with the performance of a legislative function by a Senator of the United States.

It is the opinion of this Court that the immunity under the Speech and Debate Clause of the Constitution, particularly in view of the interpretation given that Clause by the Supreme Court in Johnson, shields Senator Brewster, constitutionally shields him from any prosecution for alleged bribery to perform a legislative act.

I will, therefore, dismiss the odd counts of the indictment, 1, 3, 5, 7 and 9, as they apply to Senator Brewster.

I would like to expedite an appeal in this matter in any way that we can get this matter settled finally by the Supreme Court.

Now, would the Government contend that even though the indictment is dismissed as to Brewster, that it could still carry on as to Spiegel and Anderson?

Mr. BARON: Yes, sir, we most assuredly do.

The COURT: Gentlemen, I think on that question I would like to continue the argument at 1:30.

(At 12 noon the hearing stood concluded.)

United States District Court for the District of Columbia

Crim. No. 1872-69

[Filed 11-3-70. Robert M. Stearns, Clerk]

UNITED STATES OF AMERICA

v.

DANIEL B. BREWSTER

Order

This matter having come before the Court for a hearing on the defendant's motion to dismiss the indictment, and such hearing having been held, it is by the Court this 3rd day of November, 1970.

ORDERED that the defendant's motion be granted, and the indictment be and hereby is dismissed as to the defendant Brewster for the reasons stated orally by the Court at the hearing on October 9, 1970.

(s) GEORGE L. HART,
Judge.

A true copy:

JAMES F. DAVEY,
By (s) LILLIAN COHEN,
Deputy Clerk.

[SEAL]

United States District Court
For the District of Columbia

Crim. No. 1872-69

[Filed, 11-4-70, James F. Davey, Clerk]

UNITED STATES OF AMERICA

v.

DANIEL B. BREWSTER

Notice of Appeal

Notice is hereby given that the United States of America hereby appeals to the United States Supreme Court, pursuant to 18 U.S.C. § 3731, from the order of this Court entered No-

vember 3, 1970, dismissing the indictment herein as to the defendant, Daniel B. Brewster.

(s) THOMAS A. FLANNERY,
United States Attorney.
(s) JOHN A. TERRY,
Assistant United States Attorney.
(s) DONALD S. SMITH,
Assistant United States Attorney.

Supreme Court of the United States

No. 1025, October Term, 1970

UNITED STATES, APPELLANT

v.

DANIEL B. BREWSTER

APPEAL from the United States District Court for the District of Columbia.

The statement of jurisdiction in this case having been submitted and considered by the Court, further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits.

March 1, 1971.

U.S. GOVERNMENT PRINTING OFFICE 1971